



City of San Antonio

Agenda Memorandum

File Number:20-6674

Agenda Item Number: 26.

Agenda Date: 11/18/2020

In Control: Planning Commission

DEPARTMENT: Planning

DEPARTMENT HEAD: Bridgett White, AICP

COUNCIL DISTRICTS IMPACTED: ETJ near City Council District 8

SUBJECT:

The City of San Antonio's consent to the creation by Bexar County of the proposed Lemon Creek Public Improvement District and associated 30-year Development Agreement.

SUMMARY:

A public hearing and resolution recommending the City Council's consent to the creation by Bexar County of a proposed Public Improvement District to later be named the Lemon Creek Special Improvement District, generally located along IH-10 W, north of Dietz Elkhorn Road and west of Old Fredericksburg Road in the extraterritorial jurisdiction (ETJ) of the City San Antonio; and associated Development Agreement between the City of San Antonio and VEP Lemon Creek LP.

BACKGROUND INFORMATION:

Texas Local Government Code Chapter 382 allows for the creation of Public Improvement Districts (PIDs), by a city or a county. PIDs are economic development tools used to pay or finance public improvements and economic development within (and that benefit) a defined geographic area that will ultimately become the district. The general nature of the proposed public work may include, but is not limited to, the improvement and construction of roads, thoroughfares, collectors, arterial roads, utilities, water, waste water, sanitary sewer, drainage, trails, park and recreational facilities; which are located within the district boundaries. These districts may levy an assessment and impose an ad valorem tax, sales and use tax, or hotel occupancy tax as sources of funding and costs are apportioned and paid by landowners within the district that benefit from public improvements and/or services.

In order to create a PID in a county, more than fifty percent (50%) of owners of taxable real property liable for assessment within the proposed District area, must submit a petition to the governing body of the county. The municipality has the option to object to the formation of the district within its ETJ pursuant to state law. However, a PID being created with a purpose of supplying fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways, or drainage, may not be created in the ETJ of a municipality unless the municipality gives its written consent by ordinance or resolution.

On November 4, 2019, VEP Lemon Creek (Owner) filed a petition and application with Bexar County (County), to create a PID to be named the Lemon Creek Special Improvement District (the Lemon Creek PID) pursuant to Chapter 382 of the Texas Local Government Code. On September 8, 2020, the Owner requested that the City grant its consent to the creation of the District within its ETJ, as required by State law. On October 6, 2020, the Bexar County Commissioners Court approved a resolution stating their intent

to create the District with road district powers as well as power to impose ad valorem, hotel occupancy, sales and use taxes on future property owners located within the District's boundaries.

In accordance with Section 212.172 of the Texas Local Government Code, a municipality and a land owner may enter into a written development agreement by which the municipality will extend its planning authority, establish terms for annexation or non-annexation of land, extend its development regulations including land use and development standards, and provide for the infrastructure of the land. The City and the Owner has agreed to enter into a 30-year development agreement with the City setting forth terms and conditions governing development standards and voluntary annexation for the District property. The Development Agreement will include the proposed framework of a Strategic Partnership Agreement, which is a written contract between the City and the District and will allow the City to annex for limited purposes and collect sales taxes in the commercial property in the PID boundaries.

The proposed District Property consists of 117.837 acres of land generally located along IH-10 W, north of Dietz Elkhorn Road and west of Old Fredericksburg Road. The subject property is located within the water and sewer Certificate of Convenience and Necessity (CCN) of SAWS. The proposed Lemon Creek District development will consist of 71.07 acres of commercial use with an approximately 527 multi-family residential unit development. The proposed improvement costs of sewer, water, streets and drainage for the residential subdivision are estimated at \$20-24 million. The proposed District revenue is estimated at \$58 million.

ISSUE:

If approved, this resolution recommends the City's consent to the creation of the Lemon Creek PID by Bexar County subject to the execution of a 30-year Development Agreement between the City and the Owner. The written consent of the City by resolution or ordinance, which includes the delegation of the road district powers along with the powers to construct water, wastewater and drainage facilities, is required by state law for this District to exercise those powers. However, the City's consent will not include the following:

- The power to exercise eminent domain by the District; and
- The power to annex, divide, expand or exclude land into the PID's existing boundaries.

The proposed Development Agreement sets forth the conditions of the City's consent, as mentioned above, and includes the following terms and obligations between the City and the Owner with respect to the development of the District PID property:

- The Owner will pay to the City a PID application fee of \$7,500 and a Special District Operations Assessment of \$175 per residential unit.
- The tax rates of the proposed District shall not exceed the City's tax rates.
- The Owner will reimburse CoSA for the recordings of the development agreement with Bexar County Real Property Records.
- The City will guarantee the continuation of the extraterritorial status of the Lemon Creek PID property for a period of 30 years except in the case of default by the Owner during the Agreement's term.
- The Owner agrees that the Development Agreement constitutes a petition consenting to annexation at the City's discretion and at the end of the Agreement's term.
- The Agreement includes a Written Agreement Regarding Services between the Owner, subsequent Owners and the City under Chapter 43 of the Local Government Code.
- The Owner agrees to comply with all municipal regulations, ordinances and other laws applicable to all properties located within the City's ETJ during all the phases of development and construction of the District Project and during the term of the Agreement.
- A proposed framework of a Strategic Partnership Agreement (SPA) between the City and the Lemon Creek PID

will include the following provisions:

- The Lemon Creek PID will petition for Limited Purpose Annexation of the commercial property in the PID boundaries by the City for the purpose of assessment and collection of sales and use taxes.
- The PID will pay for costs related to the SPA and Limited Purpose Annexation and reimburse the City for the recordings of the SPA with Bexar County Real Property Records and future costs related to limited purpose annexation.
- Commencing upon the effective date of the limited purpose annexation of the commercial properties, the City will remit to the PID an amount equal to 25% of the sales tax revenues collected from annexed commercial properties.

The proposed timeline for the establishment of the proposed PID is as follows:

<u>Dates</u>	<u>Schedule of Action</u>
October 6, 2020	Bexar County Commissioners Court consideration of a resolution expressing their intent to create the PID
November 18, 2020	San Antonio Planning Commission public hearing and recommendation
December 3, 2020	City Council's consideration and action
December 15, 2020	Bexar County Commissioners Court consideration to create the proposed District and appoint a Board of Directors
May 2021	PID Election and approval of PID's taxes and bonds

ALTERNATIVES:

A denial of the Resolution would result in the PID not being created by Bexar County. This action would require the Owner to seek a different financing mechanism for the development of the District property. It may result in the development and construction of infrastructure occurring in a traditional method rather in the manner proposed by the developer.

City Council may require staff to re-negotiate the terms of the Agreement which would delay the activation of development in the PID.

RECOMMENDATION:

Staff recommends approval of a Resolution recommending the City's consent to the creation by Bexar County of the proposed Lemon Creek PID, subject to the execution of a 30-year Development Agreement between the City and VEP Lemon Creek LP.